

Chapter 300

NOISE

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[HISTORY: Adopted by the Common Council of the City of Kingston: Art. I, 6-2-1992 as L.L. No. 1-1992, approved 6-17-1992 (Ch. 79 of the 1984 Code); Art. II, 8-7-1984 by L.L. No. 3-1984, approved 8-28-1984, as Ch. 100 of the 1984 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Blasting — See Ch. 166.

Disorderly conduct — See Ch. 195.

Electrical standards — See Ch. 208.

ARTICLE I Noise Control

[Adopted 6-2-1992 by L.L. No. 1-1992, approved 6-17-1992¹ (Ch. 79 of the 1984 Code)]

§ 300-1. Title.

This article shall be known as the “Noise Control Law of the City of Kingston.”

¹ Editor's Note: This local law repealed former Ch. 79, adopted 2-6-1990 as L.L. No. 3-1990, approved 2-21-1990.

§ 300-2. Definitions.

- A. Terminology. All terminology used in this article, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.
- B. As used in this article, the following terms shall have the meanings indicated:

A-WEIGHTED SOUND LEVEL — The sound pressure level in decibels as measured on a sound level meter using the A-Weighting Network as specified in the American National Standards Institute specifications for sound level meters (ANSI as 14-1971, or the latest approved revision thereof). The level so read is postscribed dBA.

COMMERCIAL AREA — A group of commercial properties in the abutting public rights-of-way and public spaces.

COMMERCIAL PROPERTY — Any facility or property used for activities involving furnishing or handling of goods or services, including but not limited to:

- (1) Commercial dining.
- (2) Offload vehicle operating such as repair, maintenance and terminaling.
- (3) Retail services.
- (4) Wholesale services.
- (5) Banking and office activities.
- (6) Recreation and entertainment.
- (7) Community services.
- (8) Public services.
- (9) Other commercial activities.

CONSTRUCTION — Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition for or of public or private rights-of-way, structures, utilities or similar property.

CONTINUOUS SOUND — Any sound which is not an impulse sound.

CYCLICALLY VARYING SOUND — Any sound which varies in sound levels such that the same level is obtained repetitively at reasonably uniform intervals of time less than 10 minutes in length.

DECIBEL (dB) — A unit for measuring the volume of sound, equal to 20 times the logarithm to base 10 of the ratio of the pressure of the sound measured to the reference pressure which is 20 micropascals (20 micro-newtons per square meter).

DEMOLITION — Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

EMERGENCY — Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

EMERGENCY WORK — Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

IMPULSIVE SOURCE — Any source of sound or vibration of short duration, usually less than one second, with an abrupt onset and rapid decay, which significantly exceeds an eminent noise. Examples of such source include explosions and impacts.

INDUSTRIAL PROPERTY — Any facility or property used for activities involving the production, fabrication, packaging, storage, warehousing, shipping or distribution of goods; and the production, transformation and storage of energy in all forms.

MOTOR VEHICLE — Any vehicle which is propelled or drawn on land by a motor or engine, such as, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, go-carts, snowmobiles, amphibious crafts on land, dune buggies, racing vehicles and any other vehicle as defined in the Vehicle and Traffic Law of the State of New York.

MUFFLER — Any device for the abatement of sound emission while permitting the transfer of a gas, such as air.

NOISE — Any sound which annoys or disturbs humans, or which causes, or tends to cause, an adverse psychological or physiological effect on humans.

NOISE CONTROL OFFICER — Any member of the City of Kingston Police Department.

NOISE DISTURBANCE — Any sound which:

- (1) Endangers or injures the safety or health of humans;
- (2) Is a noise that disturbs reasonable persons of normal sensitivities;
- (3) Endangers or injures personal or real property; or
- (4) Is a noise.

PERSON — Any individual, association, partnership or corporation or society or joint-stock company, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

PLAINLY AUDIBLE SOUND — Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehension of musical rhythms.

POWERED MODEL VEHICLE — Any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons, including but not limited to any model airplane or boat, car or rocket.

PROPERTY BOUNDARY — Either the imaginary line, including its vertical extension that separates one parcel of real property from another, or the vertical and horizontal boundaries of a dwelling unit in a multi-dwelling unit building.

PUBLIC RIGHT-OF-WAY — Any street or avenue, boulevard, highway, sidewalk or alley or similar place that is owned or controlled by a governmental entity.

PUBLIC SPACE — Any real property or structures thereon which are owned or controlled by a governmental entity.

RESIDENTIAL AREA — A group of residential properties and the abutting public right-of-way and public spaces.

RESIDENTIAL PROPERTY — Any property used for human habitation.

RMS SOUND PRESSURE — The square foot of the time averaged square of the sound pressure.

SOUND — A temporal and spatial oscillation in pressure, or other physical quantity, in a medium with internal forces which causes compression and rarefaction of that medium, in which propagates a finite speed to distant points.

SOUND LEVEL — The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in the American National Standards Institute Specifications for sound level meters (ANSI S1.4, 1983 ASA 47-1983 or the latest approved revision thereof) and fast time weighting shall apply. If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER — An instrument, including a microphone, amplifier, RMF detector and integrator or time averager, output meter and weighting networks, that is sensitive to pressure fluctuations. The output meters read sound pressure level when properly calibrated and the instrument is of Type 2 or better as specified in the American National Standards Institute's specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof).

SOUND PRESSURE — The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

SOUND PRESSURE LEVEL — Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure which shall be 20 micropascals.

VIBRATION — A temporal and spatial oscillation of displacement, velocity or acceleration in a solid material.

WEEKDAY — Any Monday through Friday which is not a legal holiday.

§ 300-3. Enforcement by Police Department.

- A. The noise control program established by this article shall be administered by the city's Police Department.
- B. Power of the City of Kingston Police Department under this article. In order to implement and enforce this article and for the general purpose of sound and vibration abatement and control, the Police Department shall have, in addition to any other authority vested in it, the power to:
 - (1) Coordination and cooperation. Coordinate the noise and vibration control activities of all municipal departments; cooperate to the extent practical with all appropriate state and federal agencies; cooperate or combine to the extent practical with appropriate

county and municipal agencies; enter into contracts with the approval of the Common Council for the provision of technical and enforcement services; review public and private projects, subject to mandatory review or approval by other departments of the city, for compliance with this article, if such projects are likely to cause sound vibration in violation of this article; and conduct inspections as follows.

(2) Inspections.

(a) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction showing probable cause to believe that a violation of this article may exist. Such inspection may include administration of any necessary tests.

(b) Stop any motor vehicle, motorcycle or motor boat operated on a public right-of-way, public space or public waterway reasonably suspected of violating any provision of this article and issuing a notice of violation or abatement order which may require the motor vehicle, motorcycle or motor boat to be inspected or tested as the Police Department may reasonably prescribe.

(3) Records. Require the owner or operator of any commercial or industrial activity to establish and maintain records and make such reports as the Police Department may reasonably prescribe.

(4) Measurement by order of the Police Department by the owner or operator.

(a) If the Police Department has reasonable cause to believe that the owner or operator of any commercial or industrial activity is in violation of the provisions of this article, order the owner or operator to conduct such tests or measurements of the sound level from any source, which in the opinion of the Police Department are necessary to determine whether the owner or operator of any commercial or industrial activity is in violation of this article. Said tests shall be conducted within a stated time, not less than 15 days, and measurement results are to be submitted to the Police Department after the measurements are completed. The owner or operator shall be responsible for the cost of such testing and measurement and the preparation of any report. Such measurements shall be done in accordance with the methods and procedures and at such location and time that the Police Department may reasonably prescribe. The Police Department may require the measurements to be conducted in the presence of its enforcement officers.

(b) If, in the opinion of the Police Department, measurements by the Police Department are necessary, order the owner or operator to provide such access to the device or site, as the Police Department may reasonably request, to provide a power source suitable to the points of measurement, and to provide allied facilities, exclusive of sound level meter provision. These provisions shall be made at the expense of the owner of the device or site. The owner shall be furnished with copies of the results of the measurements collected.

- (5) Noise-sensitive zone recommendations. Prepare recommendations, to be approved by the Common Council, for the designation of noise-sensitive zones which contain noise-sensitive activities. Existing quiet zones should be considered noise-sensitive zones until otherwise designated. Noise-sensitive activities may include operations of schools, libraries open to the public, churches, hospitals and nursing homes.

§ 300-4. Enforcement by other municipal departments and boards.

- A. Departmental actions. All departments, agencies and boards shall, to the fullest extent consistent with other laws, carry out their programs in such a manner as to further the policy of this article.
- B. Departmental cooperation. All departments, agencies and boards shall cooperate with the Police Department to the fullest extent in enforcing this article.
- C. Departmental compliance with other laws. All departments, agencies and boards shall comply with federal and state laws and regulations and the provisions and intent of this article respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.
- D. Project approval. All departments and boards whose duty it is to review and approve new projects or changes to existing projects, that result or may result, in the production of sound or vibration shall consult with the Police Department prior to any such approval.

§ 300-5. Prohibitive acts.

- A. Noise disturbances prohibited. No person shall unreasonably make, continue or cause to be made or continued any noise disturbance. Noncommercial public speaking in public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this section. Standards to be considered in determining whether there is a prohibitive noise disturbance in a given situation, include, but are not limited to, the following:
 - (1) The intensity of the noise.
 - (2) Whether the nature of the noise is usual or unusual.
 - (3) Whether the origin of the noise is associated with nature or man-made activity.
 - (4) The intensity of the background noise, if any.
 - (5) The proximity of the noise to the sleeping facilities.
 - (6) The nature and the area within which the noise emanates.
 - (7) The time of the day or night the noise occurs.
 - (8) The time duration of the noise.
 - (9) Whether the sound source is temporary.
 - (10) Whether the noise is continuous or impulsive.

(11) The presence of discrete tone.

(12) Whether alternate methods are available to achieve the objectives of the sound-producing activity.

B. Specific prohibitions. No person shall cause, allow or permit the following acts:

(1) Animals. Owning, possessing or harboring any animal which creates a noise disturbance across a residential real property boundary or within a noise-sensitive zone.

(2) Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work:

(a) Between the hours of 6:00 p.m. and 8:00 a.m. on weekdays or at any time on Sundays/weekends or holidays, such that the sound therefrom creates a disturbance across a residential real property boundary or within the noise-sensitive zone or is in violation of § 300-6 (sound level measurements), except for emergency work or public service utilities or by special permit issued pursuant to § 300-7.

(b) This section shall not apply to the use of domestic power tools, lawn mowers and garden equipment between the hours of 8:00 a.m. and 8:00 p.m. on weekdays and 8:00 a.m. and 8:00 p.m. on weekends and legal holidays, and snowblowers between the hours of 6:00 a.m. and 10:00 p.m., provided that they produce less than 90 dBA at or within any real property line of a residential property.

(c) In violation of any state or federal law.

(3) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool or similar device used outdoors in residential areas between the hours of 8:00 p.m. and 8:00 a.m., and the operation of any mechanically powered domestic snow-removal device between the hours of 10:00 p.m. and 6:00 a.m., so as to cause a noise disturbance across a residential real property.

(4) Emergency signaling devices as follows:

(a) The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in Subsection B(4)(b).

(b) Testing.

[1] Testing of a stationery emergency signaling device shall occur at the same time of day each time such a test is performed. Any such testing shall use the minimal cycle test time.

[2] Testing of the complete emergency signaling system, including the function of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month.

- (c) Sounding or permitting the sounding of any exterior burglar alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within 15 minutes of activation and shall not be operated more than 15 minutes in any one-hour period.
- (5) Explosives, firearms and similar devices. The use of firing of explosives, firearms or any other impulsive source so as to cause a noise disturbance across the real property boundary in a noise-sensitive zone or on a public space or right-of-way, without first obtaining a special variance issued pursuant to § 300-9. Such permit need not be obtained for such licensed game-hunting activities on property where such activities are authorized.
- (6) Loading and unloading.
 - (a) Loading, unloading, opening, closing or handling of boxes, crates, containers, building materials, liquids, garbage containers, refuse or similar objects; the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder or pellet form; and compacting refuse by persons engaged in the business of scavenging or garbage collection whether private or municipal, between the hours of 10:00 p.m. and 6:00 a.m. on weekdays, and between the hours of 10:00 p.m. and 7:00 a.m. on weekends or legal holidays, or in such a manner as to cause a noise disturbance across a residential or real property boundary or within a noise-sensitive zone.
 - (b) Any loading or unloading not addressed in the preceding subsection, or by other provision herein, will be prohibited between the hours of 8:00 p.m. and 7:00 a.m. and will be subject to the provisions of § 300-6 herein.
- (7) Loudspeakers/public address systems.
 - (a) Using or operating for any noncommercial purpose any loud speaker, public address system or similar device between the hours of 10:00 p.m. and 10:00 a.m. the following day, such that the sound therefrom creates a noise disturbance or is plainly audible across a residential real property boundary or within a noise-sensitive zone.
 - (b) Using or operating for any commercial purpose any loud speaker, public address system or similar device:
 - [1] Such that the sound therefrom creates a noise disturbance or is plainly audible across the real property boundary or within a noise-sensitive zone; or
 - [2] Between the hours of 10:00 p.m. and 10:00 a.m. on a public right-of-way or public space.
- (8) Modification of noise control devices. No person shall operate or permit to be operated any device that has been modified so as to cause the sound emitted from such device to be greater than that emitted from such device as originally manufactured.

- (9) Motor boats. Operating or permitting the operation of any motor boat in any lake, river, stream or other waterway and upon the waters of the Rondout Creek in such a manner as to exceed a sound level of 85 dBA at 50 feet (15 meters) or the nearest shoreline whichever distance is less. [See Subsection B(14) of this section also.]
- (10) Noise-sensitive zones.
 - (a) Creating or causing the creation of any sound within in any noise-sensitive zone as designated under this article so as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone; or
 - (b) Creating or causing the creation of any sound within any noise-sensitive zone as designated under this article, containing a hospital, nursing home or similar activity, so as to interfere with the function of such activity or disturb or annoy the patients and the activity, provided that conspicuous signs are displayed indicating the presence of the zone.
- (11) Sound reproduction systems.
 - (a) Operating, playing or permitting the operation of any radio, television, phonograph or similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance to any other person other than the operator of the device.
 - (b) This section shall not apply to noncommercial, spoken language covered under Subsection B(7) of this section.
- (12) Nonemergency signaling devices.
 - (a) Alternative 1.
 - [1] Sounding or permitting the sounding of any electronically amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes, from any place for more than five minutes in any hour. These sounds are not permitted between the hours of 10:00 p.m. and 7:00 a.m.
 - [2] Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision.
- (13) Street sales. Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the city except by permit issued by the appropriate department within the city between the hours of 8:00 p.m. and 10:00 a.m., unless otherwise permitted by the proper authority.
- (14) Vehicle or motor boat repairs and testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motor boat in such a manner as to cause a noise disturbance across a residential real property boundary or within the noise-sensitive zone or between the hours of 8:00 p.m. and 8:00 a.m. At no time shall the decibel level exceed 85 dBA at the receiving boundary.

- (15) Prohibited noise. If any said noise is deemed unreasonable by an officer of the Kingston Police Department, said opinion by said officer of the Kingston Police Department shall be deemed presumptive evidence of unreasonable noise. This presumption may be rebutted by competent evidence.

§ 300-6. Maximum permissible sound levels by receiving land use.

- A. No person shall operate or permit to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limit set forth for the receiving land use category in Table 1 when measured at or within the real property boundary of the receiving land use.

Table 1

Receiving Land Use Category	Time	Sound Level Limit (dBA)
Residential	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m.	55
NB (Convenience Business)	At all times	60
Commercial	At all times	75
Industrial	At all times	75
Another dwelling within a multiple- dwelling-unit building ¹	7:00 a.m. to 10:00 p.m.	55
	10:00 p.m. to 7:00 a.m.	50

¹NOTE: Levels only apply when the sound source is another location within a multiple-dwelling-unit building. Otherwise, the levels from the residential receiving land use category are applicable.

- B. When measuring noise within a dwelling unit or within a multiple-dwelling-unit building, measurements shall be taken in the center of the room affected or as near the center of the room as possible.
- C. When measuring noise from a different land use category, the most restrictive sound level limits will be applied for determining permissible sound levels.
- D. Where time restrictions set forth in this section are not consistent with those used in other parts of the regulation, the time restrictions for express uses will apply.

§ 300-7. Exceptions and special permits.**A. Emergency exception.** The provisions of this article shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency; or
- (2) The emission of sound in the performance of emergency work. Nothing in this section, however, shall be construed to prevent law enforcement, ambulance, fire or other emergency personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary.

B. Special permits.

- (1) The Planning Department shall have the authority, consistent with this section, to grant special permits which may be requested pursuant the provisions contained herein.
- (2) Any person seeking a special permit pursuant to this section shall file an application with the Planning Department. The application shall contain information which demonstrates that bringing the source of the sound or activity for which the special permit is sought into compliance with this article would constitute an unreasonable hardship on the applicant, on the community or on other persons. Notice of an application for special permit shall be published according to the requirements of each application as set forth by the planning permit. Any individual who claims to be adversely affected by allowance of this special permit may file a statement with the Planning Department containing any information to support his claim. If the Planning Department finds that a sufficient controversy exists regarding an application, a public hearing may be held.
- (3) In determining in whether to grant or deny the application, the Planning Department shall balance the hardship to the applicant, the community and other persons of not granting this special permit against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on the property affected and any other adverse impacts of granting this special permit. Applicants for special permits and persons contesting special permits may be required to submit any information the Planning Department may reasonably require. In granting or denying an application, the Planning Department shall place on public file a copy of the decision and the reasons for denying or granting the special permit.
- (4) Special permits shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any conditions of the special permit shall terminate it and subject the person holding it to those provisions of this article regulating the source of sound or activity for which the special permit was granted.
- (5) Application for an extension of the time limit specified in special permit for modification of other substantial conditions shall be treated like applications for initial special permit under Subsection B(2).

- (6) The Planning Department may issue guidelines approved by the Common Council defining the procedures to be followed when applying for special permit and the criteria to be considered in deciding whether to grant a special permit.
- (7) There shall be a fee of \$25 for special permit under this section.

C. Special permits for time to comply.

- (1) Within 120 days following the effective date of this article, the owner of any commercial or industrial source of sound may apply to the Planning Department for a special permit extending the time to comply with the sections herein. The Planning Department shall have the authority, consistent with this section, to grant such a permit not to exceed 210 days from the effective date of this article, and each extension will require the posting of a performance bond to be established by the Planning Department.
- (2) Any person seeking a special permit in time to comply shall file an application with the Planning Department. The application shall contain information which demonstrates that bringing the source of the sound or activity for which the special permit is sought into compliance with this article would constitute an unreasonable hardship on the applicant, on the community or on other persons. Notice of an application for a special permit for time to comply shall be published according to the requirements of each application as set forth by the Planning Department. Any individual who claims to be adversely affected by allowance of this special permit may file a statement with the Planning Department containing any information to support his claim. If the Planning Department finds that a sufficient controversy exists regarding an application, a public hearing may be held.
- (3) In determining whether to grant or deny the application for an extension, the Planning Department shall balance the hardship to the applicant, the community and other persons of not granting this extension against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on the property affected and any other adverse impacts of granting this extension. Applicants for extensions and persons contesting extensions may be required to submit any information the Planning Department may reasonably require. In granting or denying an application, the Planning Department shall place on public file a copy of the decision and the reasons for denying or granting the extension.
- (4) Special permits and time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The special permit extending time to comply shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the permit shall terminate the permit and subject the person holding it to those provisions of this article.
- (5) Application for extension of time limits specified in special permits and time to comply or for modifications for initial permits under Subsection B may be granted, provided that the Planning Department must find that the need for the extension and modification clearly outweighs any adverse impacts of granting the extension and modification.

- (6) The Planning Department may issue guidelines approved by the Common Council defining the procedures to be followed when applying for an extension of a special permit and the criteria to be considered in deciding whether to grant an extension.
- D. Appeals. Appeals of an adverse decision under this section shall be made in accordance with the provisions of Article 78 of the Civil Practice Law and Rules of the State of New York.

§ 300-8. Enforcement; penalties for offenses.

- A. Issuance of appearance tickets. The Chief of the Kingston Police Department shall approve the form of appearance tickets to be issued pursuant to this article, and the Chief of the Kingston Police Department or any duly appointed police officer of the Department is hereby authorized and empowered to issue an appearance ticket for the enforcement of this article. If no specific procedures for the issuance of said appearance tickets is set forth herein, it shall be issued in accordance with the provisions of the City Code, Penal Law and the Criminal Procedural Law of the State of New York. Any violation of this article shall be considered equivalent to a traffic violation under the Vehicle and Traffic Law of the State of New York.
- B. Penalties for offenses.
 - (1) Any person who violates a provision of this article shall be fined a sum of not less than \$100 and not more than \$500 and/or subject to a period of incarceration not to exceed 30 days; or a fine of not less than \$100 and not more than \$500 and a conditional discharge for a period of one year as defined in the Penal Law and Criminal Procedural Law for the State of New York.
 - (2) Each day a violation of any provision of this article exists shall constitute a separate violation.
 - (3) In addition to the penalties as set forth in Subsection B(1), any person who violates a provision of this article shall be subject to an order that said person shall install any apparatus which can reasonably be expected to correct the violation; or to repair, properly maintain, replace or alter such device in a manner which can reasonably be expected to correct the violation; or seal any device which causes or is maintained or operated so as to cause a violation of any provision of this article; or be ordered to cease and desist from any activity which causes or is conducted so as to cause a violation of any provision of this article.
- C. Abatement orders.
 - (1) Except as provided in Subsection C(2), in lieu of issuing an appearance ticket as provided for in the previous Subsection A, Issuance of appearance tickets, providing for compulsory enforcement, the Police Department may take action to obtain voluntary compliance with the provisions of this article by way of warning, notice or educational means and may issue an order requiring abatement of any source of sound or vibration alleged to be in violation of this article in a reasonable time period and according to guidelines which the Planning Department may prescribe. Such

noncompulsory methods may not be used before proceeding by way of compulsory enforcement as provided in Subsection A of this section.

- (2) An abatement order shall not be issued when the Police Department has reasonable cause to believe that a person is willfully or knowingly violating a provision of this article or when the Police Department has reason to believe that there will not be compliance with the abatement order.
- D. Immediate threats to health and welfare. If the Chief of Police or his designee determine that there is a need for an immediate halt to any sound that poses an immediate threat to the health and welfare of any person other than those persons exposed as a result of trespass or invitation upon private property by the person causing or permitting the sound or employment by the person or contractor of the person causing or permitting the sound he may maintain an action or proceeding in a court of competent jurisdiction to restrain by injunction the violation under this section.
- E. Other remedies. No provision of this article shall be construed to impair or shall restrict any right which any person may have under any statute, including but not limited to the Environmental Conservation Law, Vehicle and Traffic Law, Labor Law or any other local, state or federal statute or common law, to seek enforcement of any noise control requirement or to seek any other legal relief or remedy therefrom for injury or damage arising from any violation of this article or from any other law.

§ 300-9. Service of papers.

Service of any written notice, order or decision required for this article shall be made to a person as follows:

- A. Either by mailing the notice, order or decision directed at the person at the address listed in his application, permit or operating certificate or at the address at which the sound source is located;
- B. By leaving the notice, order or decision with the person or, if the person is not an individual, with a member of the partnership or the group concerned or with an officer or managing agent of the corporation or other entity; or
- C. By posting the notice, order or decision at the site where the sound source is located and by also mailing the notice, order or decision directed to the person at the address where the sound source is located.

ARTICLE II

Sound Amplifiers and Devices

**[Adopted 8-7-1984 by L.L. No. 3-1984,
approved 8-28-1984, as Ch. 100 of the 1984 Code]**

§ 300-10. License required: fee; restrictions.

No person, firm or corporation, whether acting as principal or agent for another, shall maintain and operate in any building, residence or in or on any premises in the city or upon the public

streets of the city, any radio, radio device, loudspeaker, amplifier, or mechanical musical device of any kind whereby the sound therefrom is cast directly upon the public streets and places where such device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public, without first obtaining a license from the City Clerk of the City of Kingston. The applicant for such license shall apply in person or by a duly authorized representative, and shall make application by stating, in writing, his name, residence and business occupation. For every such license, the Clerk shall charge and the city shall receive a license fee of \$50. Every license so issued shall expire on the first day of January next succeeding the day on which it is granted. Each such license issued shall state thereon the name and residence of the owner and operator of said loud-speaking device, amplifier, radio or mechanical musical device. The license fee so charged shall apply whether the applicant wishes to use said mechanical device either once or at various times during the term of the license. No licensee shall operate any mechanical radio, loudspeaker, amplifier or musical device before 10:00 a.m. and after 6:00 p.m. unless special permission is obtained from the Chief of Police, stating the time, place and nature of the occurrence which requires the use of said radio, loudspeaker, amplifier or mechanical musical device after 6:00 p.m. No licensee shall be permitted to use any device hereinabove enumerated on Sunday, nor shall said mechanical amplifier device, radio or loudspeaker be operated within 300 feet of any hospital, sanitarium, church or funeral home or public school while said school is in session. No such licensee shall be permitted, if said radio, loudspeaker, amplifier or mechanical device is attached to a motor vehicle, to stop on the public streets of the city unless permission therefor is obtained from the Chief of Police. No licensee shall be permitted to operate any such device attached to a motor vehicle more than once every half hour on the same street.

§ 300-11. Inspections; duty of licensee in emergencies.

The Chief of Police shall cause such inspections to be made from time to time as may be necessary to determine whether the conditions of said license are being complied with. The Mayor of the City of Kingston or the Chief of Police may, in an emergency, call upon any licensee living within the City of Kingston to transmit any warning or message to the residents of said city, which, in their opinion, is deemed advisable and necessary under such emergencies.

§ 300-12. Revocation procedure.

Whenever the Mayor or Chief of Police believes that sufficient cause exists for the revocation of a license, he may, upon his own motion or upon a complaint made by any person, revoke any license issued hereunder. Before revoking any such license, he shall cause to be served upon such licensee a notice specifying the grounds of complaint or the alleged reason for revocation. Said notice shall fix a time and place at which the Mayor shall hear and determine said complaint. The person against whom said complaint is made shall have an opportunity to be heard in answer to the complaint at the time specified in said notice, and to make defense thereof. The Mayor may or may not revoke the license of any person against whom charges are brought; provided, however, that when a license is revoked, the Mayor shall notify the licensee in writing and give the reason for such revocation.

§ 300-13. Penalties for offenses.

The violation of any of the provisions of this article is hereby declared to be a misdemeanor, and shall be punishable by a fine not exceeding \$150 or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each day said business is carried on in violation of any of the provisions of this article shall constitute a separate offense.

§ 300-14. Publication; when effective.

This article shall be published at least once in each of the official papers of the city, and shall take effect immediately after the publication thereof.